IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

ST.Rev..No. 108 of 2007()

TA.213/2006 of S.T.A.TRIBUNAL,ADDL.BENCH,PALAKKAD
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REVISION PETITIONER/RESPONDENT/ASSESSEE

M/S.VIJAYA GENERAL STORES,
SULTANPET, PALAKKAD, REPRESENTED BY ITS
PARTNER MUKUNDANUNNI.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS: APPELLANT/REVENUE:

STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

BY SPECIAL GOVERNMENT PLEADER FOR TAXES
SRI. V.V. ASOKAN.

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 15/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S. RADHAKRISHNAN, Ag.C.J. & M.N. KRISHNAN, J.

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S.T.Rev. NO 108 OF 2007

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Dated this the 15th day of March, 2007.

J U D G M E N T

Radhakrishnan,(Ag.C.J.)

This sales tax revision is preferred against the order of the Appellate Authority in T.A.213/06. The assessment in respect of the assessee for the year 1998-99 is stated to have a total taxable turnover of Rs.18,15,166.00 and Rs.12,43,100.00 respectively. While completing the assessment, the tax rate of the mineral water was taken as 10% instead of 20%. A notice was sent to the appellant proposing to rectify the assessment. The contention of the assessee before the Additional Sales Tax Officer was that he was selling only packaged drinking water and not mineral water. Before the lower appellate authority the assessee appeared and he was heard. After considering various objections of the assessee, the Sales Tax Officer held that the product dealt with by the assessee is mineral water and directed to pay 20% as tax. Against that decision, the assessee filed an appeal before the Appellant Assessment Commissioner by relying

on the decision of this Court in **Teejan Beverages Ltd. v. State of Kerala (131 STC 538**) wherein it is stated that the drinking water packed in bottles and sold by them under various brand names will not change the commodity. Therefore, the Sales Tax authorities came to a conclusion stating that the commodities dealt with by the assessee were not mineral water but only drinking water packed in bottles and therefore the assessee is only liable to pay 10% of the taxable turnover as sales tax. On the basis of those findings, the Appellant Assistant Commissioner allowed the appeal of the appellant. It is against that decision the State preferred an appeal before the Appellate Authority.

2. The Appellate Authority fully endorsed with the view of the Additional Sales Tax Officer and rejected the appeal of the assessee. It is against that decision of the Appellate Tribunal, the present revision is filed. We are of the view that the Appellate Tribunal after evaluating the matter throughly had entered into a finding that the lower appellate authority assessed the tax in accordance with law and there is no error in the order of the assessing authority. S.T. Registration certificate issued to the

assessee would show that the assessee is authorized to sell only Mineral water. Counter foils of Form E declaration would show that the item transferred is Mineral water. In the circumstances, we do not see any ground to interfere with the finding rendered by the facts finding authorities. Therefore, the S.T.Rev. lacks merit and it is dismissed.

K.S. RADHAKRISHNAN,
ACTING CHIEF JUSTICE.

M.N. KRISHNAN, JUDGE.

ul/-